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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Ninth periodic reports of States parties due in 1999

Addendum

China: Macau Special Administrative Region*

[3 October 2000]

* This document is part of the eighth and ninth periodic reports of China. (See CERD/C/357/Add.4 (Part I).)

All annexes referred to in the report may be consulted in the files of the secretariat.

The information submitted by China on the Hong Kong and Macau Special Administrative Regions, in accordance with the guidelines for the initial part of the report of States parties, is contained in HRI/CORE/1/Add.21/Rev.2.

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I. INTRODUCTION

1 The present report is the first to be submitted by the Government of the People's Republic of China (PRC) under the terms of article 9 (1) of the International Convention for the Elimination of All Forms of Racial Discrimination, for the application of this convention to the Macau Special Administrative Region of the People's Republic of China (hereinafter Macau SAR). The Convention took effect in Macau as of 27 May 1999.[1]

2 This report, prepared as provided for in the guidelines adopted by the Committee on the Elimination of Racial Discrimination concerning the form and content of reports to be submitted by States parties, should be read jointly with the core document on the Macau SAR, also forwarded to the Secretary-General of the United Nations. Both these documents form attachments, respectively, to the core document and to the report of China, in a form similar to that concerning the Hong Kong SAR and the PRC. General information concerning the territory and population, political structure and scheme for protection of human rights within the Macau SAR legal system can therefore be found in the core document.

3 Macau has long been a territory in which persons of many and varied races, nationalities, religious persuasions and languages mixed together, where there was no discrimination based on origin, sex, race, language, territory of origin, political or religious conviction, economic situation or social class.

4 The Macau SAR Basic Law (annex 1 to this part of the report), being a law of a constitutional character, contains certain basic principles. One of these is the principle of non-discrimination, dealt with in article 25, others include the guarantee of the rights and freedoms of Macau residents as contained in its article 4.

5 The provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights,[2] the international labour conventions and other international agreements previously in effect in Macau shall continue to be applied in the Macau SAR, independently of the PRC being a party thereto (Basic Law, arts. 40 and 138).

II. GENERAL INFORMATION ON THE POPULATION

6 Regarding place of birth, according to the last by-census taken in 1996 ("Intercensus 96"), 44.1 per cent of the population was born in Macau, 47.1 per cent in the Chinese Mainland, 3 per cent in Hong Kong, 1.2 per cent in the Philippines, 0.9 per cent in Portugal, 0.2 per cent in Thailand and 3.5 per cent in other countries.

7 In the final quarter of 1999, there were 32,183 non-resident workers in the Macau SAR, the vast majority of whom (24,895) came from the Chinese Mainland, 3,779 from the Philippines, 1,194 from Thailand and 2,315 from other countries and/or territories.

8 On the basis of the "Intercensus 96" results, 87.1 per cent of the population are Cantonese speakers, 1.2 per cent speak Mandarin, 7.8 per cent use other Chinese dialects, 1.8 per cent speak Portuguese, 0.8 per cent speak English and 1.3 per cent other languages.

9 According to the last (XIII) General Population Census effected in 1991 ("Census 91"), 16 8 per cent of the population were Buddhists, 6 7 per cent Roman Catholics, 1 7 per cent Protestant, 13 9 per cent other religions and 60 8 per cent expressed no religious belief

III. INFORMATION CONCERNING ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

10 As may be seen in the Macau SAR legislation, discriminatory attitudes are condemned and prohibited by Macau SAR law

11 Article 25 of the Macau SAR Basic Law provides that "All Macau residents shall be equal before the law, and shall be free from discrimination, irrespective of their nationality, descent, race, sex, language, religion, political or ideological belief, education level, economic status or social conditions" This is an important legal principle of the Macau SAR, subject to limitations only in cases provided for under the law (Basic Law, art 40, applicable to the rights and liberties enjoyed by Macau SAR residents)

12 Articles 43 and 44 of the Basic Law extend the principle of universality to persons not resident in the Macau SAR but present there who, as provided by law, enjoy the rights and liberties of residents, while the residents and any other persons present in the Macau SAR are equally bound to observe current laws

13 The Basic Law has constitutional value and therefore takes precedence over all other laws Any legislation conflicting with this law "shall be amended or cease to have force" (Basic Law, art 145) The Basic Law stipulates a range of norms necessary for determining not only the autonomy enjoyed by the Macau SAR, but also the extent of that autonomy

14 Article 25 of the Macau SAR Basic Law grants continuance to a constitutional precept of similar content that prevailed in Macau before 20 December 1999 and that had been adapted in and brought into conformity with all current legislation in Macau Thus, there has been a long tradition in Macau of accepting as pillars of the legal system the principle of equality and the prohibition of discrimination

15 As an example of these efforts to adapt the legislation and to adopt the principle of equality in relations between the Administration and individuals, in its relations with individuals the Administration may not privilege, benefit, prejudice, deprive of any rights or exempt from any obligations any party administered, by reason of position, sex, race, language, territory of origin, religion, political or ideological persuasion, education, economic or social position (art 5 (1), Decree-Law 57/99/M of 11 October (annex 2)) Decisions of the Administration conflicting with subjective rights or legally protected interests of individuals may only affect such positions in terms adequate and proportionate to the objectives to be achieved (art 5 (2), Decree-Law 57/99/M)

16 Furthermore, penal legislation severely punishes the practice of acts carried out for discriminatory reasons Article 233 of the Macau Penal Code (annex 3) punishes incitement to

racial discrimination through establishment of organizations or the development of organized propaganda activities. Punishment is also meted out for use of writings, social communications media or public meetings to incite acts of violence, or to defame or injure individuals or groups by reason of their race, colour or ethnic origin.

17. Genocide, incitement thereto and agreement designed to encourage the practice thereof carry heavy prison sentences of, in the case of genocide, a maximum of 25 years' imprisonment. The Convention for the Prevention and Punishment of the Crime of Genocide of 9 December 1948 became effective in Macau on 16 September 1999.[3]

18. Persons not knowing or having mastered either official language - Chinese or Portuguese - involved in administrative proceedings may have an interpreter appointed for them without payment (arts. 82, Code of Penal Procedure (annex 4), and 89, Code of Civil Procedure (annex 5)).

19. Regulations for eligibility for holding public office, contained in Decree-Law 87/89/M of 21 December (annex 6), demand as mandatory either Chinese or Portuguese nationality and residence in Macau. Exceptionally, the Administration may nevertheless accept other nationalities for the exercise of functions of a mainly technical, scientific or educational nature which do not involve posts of director and head (art. 10, with amendments introduced under Decree-Law 62/98/M of 28 December). Also, the Statute for Military Security Forces in Macau accepts the possibility of positions being available for persons of nationalities other than Chinese or Portuguese (art. 82, Decree-Law 66/94/M of 30 December (annex 7)). It should be noted that during the first half of 1999 the Macau Administration employed 293 workers of nationalities other than Chinese or Portuguese out of a total of 17,391 civil servants.

Non-resident workers

20. The vast majority of non-resident workers in the Macau SAR came from the Chinese Mainland, as stated above. Their adaptation to Macau is simplified by various aspects of ethnic, linguistic and lifestyle identity.

21. Philippine nationals form another important community of non-resident workers in the Macau SAR, hence the need for the Government to institute specific measures concerning this community, on the one hand through direct initiative, on the other hand by creating conditions to enable these persons to organize and express themselves freely. One of the relevant approaches has been the creation at TDM - Macau TV - of a specific programme, the "Philippine Hour", managed by this community. Further, the Administration has repeatedly placed at their disposal the area of the Provisional Macau Municipal Council square for the cultural activities of the Filipino community.

Refugees

22. The Convention relating to the Status of Refugees of 25 July 1951 and its Protocol of 31 January 1967 entered into force in Macau on 26 July 1999 and 27 April 1999, respectively.[4]

23 At the beginning of the 1980s about 10,000 Vietnamese refugees arrived in Macau They were welcomed jointly by the Government and local organizations linked to the Catholic Church and they were assigned to the Ka-Ho Refugee Camp There were still 518 Vietnamese nationals living there in 1987 The great majority of these refugees were eventually accepted to resettle in other countries and only a very small number of them - actually seven persons - remained in Macau and were absorbed locally The Ka-Ho Refugee Camp was closed down at the beginning of the 1990s

24 The Ilha Verde (Green Island) Refugee Camp is still in existence in Macau and 800 East Timorese were living there It was largely subsidized by the Government, which - in addition to costs and accommodation - paid the cost of their repatriation These East Timorese returned to East Timor or went to Portugal, except for about 15 of them who settled in Macau

Article 3

25 No apartheid or other form of segregation or racial discrimination is practised in Macau In addition, as stated above, each and every form of racial discrimination is condemned and forbidden by law

26 The Central People's Government of the PRC, which is responsible for matters concerning external affairs in the Macau SAR, has always condemned any racially-oriented discriminatory practices

27 It should be emphasized again that the penal legislation severely punishes incitement to racial discrimination, genocide or incitement thereto, and other practices violating the principle of non-discrimination (see information concerning article 4 below)

Article 4

28 The practice of acts encouraging or inciting hatred, hostility or violence is punished by criminal law, under the terms of the Macau Penal Code, articles 129 (2) (d), 229, 230, 231, 233 and 234 In addition, article 229 of the Macau Penal Code punishes with a sentence of six months to three years any incitement to hatred against a people with the intention of provoking a war, and article 230 of the Macau Penal Code punishes with sentences of 15-25 years of imprisonment any persons who, with the aim of entirely or partially eliminating a national, ethnic, racial or religious group, should kill members of the group, engage in serious offences against the physical integrity of the group members, subject the group to cruel, degrading or inhuman living conditions or treatment likely to result in its total or partial elimination, transfer by violent means members of one group to another or render the group unable to procreate or give birth Further, any person who, with intent to incite racial discrimination, encourages, founds or forms an organization or engages in organized propaganda activities inciting or encouraging racial discrimination, hatred or violence, or participates in such organizations or activities, or assists them (inclusive of financing), or who provokes acts of violence, defaming or injuring a person or groups of persons by reason of their race, colour or ethnic origin, shall be punishable by sentences of sixth months' to eight years' imprisonment (art 233, Penal Code)

29 The crime of homicide becomes more serious where motivated by racial, religious or political hatred (art 129 (1) (a), Penal Code) Accordingly, article 1 of Law 7/89/M of 4 September (annex 8) makes it illegal to publish material which, by reason of its form, subject or purpose, may offend against basic community values Article 7 of this law specifically prohibits publicity that may encourage or incite violence and illegal or criminal activities or make deprecatory use of national or religious symbology Law 2/99/M of 9 August (annex 9), regulating freedom of association, prohibits the creation of associations which in any form encourage violence or violate the penal law or antagonize public order, whether in the form of military-type armed associations, militarized or paramilitary organizations, or racist organizations

Article 5

Paragraph (a) - Right of access to the courts or other bodies administering justice

Access to the courts

30 The principle of access to the law and the courts is constitutionally guaranteed in the Macau SAR legal system (art 36 of the Basic Law) and forms an integral part of the principle of equality, being as such subdivided into the right of access to the courts, the right to information and the right to legal aid

31 Law 21/88/M of 15 August (annex 10), with amendments introduced by Decree-Law 41/94/M of 1 August and developed by Government Regulations 265/96/M of 28 October and 60/97/M of 31 March, establishes the system of access to the law and the courts This system is designed to ensure that nobody shall experience difficulties or obstacles, by reason of social or cultural position, or lack of sufficient financial means, in knowing or defending his/her rights (art 1, Law 21/88/M)

32 Access to the law and to the courts is the joint responsibility of the Government and the members of the legal professions

33 Law 21/88/M of 15 August provides for four areas of intervention legal information, legal protection, legal counsel and legal aid

34 At the level of legal information, government objectives consist of actions tending to provide information about the law and the legal system through publications and other media, in Chinese and Portuguese, with a view to providing better implementation of rights and compliance with legally established laws (art 5 of the law) More extensive concrete details on this subject will be provided hereunder

35 The right to legal protection is enjoyed by individual and collective persons who provide evidence of lacking adequate means to bear the costs of legal professionals and to bear the costs of a lawsuit (art 7 of the same law)

36 The legal aid system is contained in Decree-Law 41/94/M of 1 August and Government Regulations 265/96/M of 28 October and 60/97/M of 31 March Legal aid includes full or partial

exemption from payment of costs or their postponement, in addition to legal counsel support (art. 1 (1), Decree-Law 41/94/M). Legal aid applies to all jurisdictions independently of the applicant's position in the case, with the exception of criminal cases. In these cases only the defendants and those on whose accusation depends the exercise of penal action have the right to legal aid (art. 2, Decree-Law 41/94/M). Legal aid may be granted to all residents of the Macau SAR, even temporary ones, who prove their lack of adequate financial means to pay in full or in part the normal expenses for a lawsuit (art. 4 (1), Decree-Law 41/94/M). Legal aid is provided on an ad hoc basis by a lawyer, trainee or solicitor, appointed by the judge (art. 25, Decree-Law 41/94/M).

37. Attention should further be drawn to the general principle arising out of article 6 of Law 9/1999 of 20 December (annex 11), which provides that "all persons are assured the right to access the courts in the defence of their rights and legally protected interest, and justice may not be denied by reason of insufficient financial means", while a decision must be rendered within a reasonable time and by fair process.

38. Article 14 of Decree-Law 57/99/M of 11 October, which approved the Administrative Procedure Code, guarantees to all individuals access to the courts with administrative jurisdiction.

39. Another aspect of the right of access to the law considers the need to create conditions that overcome the linguistic obstacles that exist de facto in Macau. Hence, as mentioned above, participation in lawsuits by persons not familiar with either of the two official languages, Chinese or Portuguese, entails the need to provide them with a corresponding interpreter (arts. 82, Penal Procedure Code, and 89, Civil Procedure Code).

Access to other bodies administering justice

40. Legal counsel is guaranteed by a "Legal Counsel Office" within the Administration, via the Centre for Public Assistance and Information (CAIP). This is a free service available to the entire population. In addition, residents may submit to CAIP complaints and claims concerning shortcomings in the public services (art. 17 (1) (b), Decree-Law 23/94/M of 9 May (annex 12)).

41. The Public Ministry Department also provides a free weekly service to the public, dispensing legal information and in certain cases even taking the initiative for a lawsuit.

42. The Macau Attorneys' Association also provides the public with a service offering legal clarifications and information. This service is given by a lawyer paid by the Association and offered on its premises subject to prior appointment by telephone.

43. Law 5/94/M of 1 August (annex 13) regulates and ensures the exercise of the right to petition. Under the terms of this law, petitions cover the defence of personal rights and the legal or other interests of the community, its character as a right of political participation justifying the exercise of the right of petition independently of the existence of any violation of personal rights or in defence of general legality or the general interest.

44 The right to petition is exercised through submission to the Government's own organs or to any public authorities of petitions, representations, claims or complaints. It may be exercised either individually or collectively, or by collective persons legally formed. It may be cumulative with other forms of defence and legitimate interest and may not be restricted in its exercise by any organ of the Government itself or by any public authority.

45 This characteristic of political law does not prevent its utilization by non-residents in the defence of their legally protected rights and interests. It is a universal and free right and may in no case be the subject of any taxes or charges.

Paragraph (b) - Right to security of person and protection by the State against maltreatment whether by government officials or by any other individual, group or institution

46 The right to security, which ensues directly from the right to freedom, relates to the guaranteed exercise of rights free of threats or aggression. A consequence of this right is the prohibition of arbitrary detention or imprisonment and also illegal deprivation or restriction of personal liberty (art. 28, Basic Law). In this manner, restrictions on the right to freedom may only be applied to legally designated cases, subject to a corresponding legal authorization. Where this cannot be verified, an application may be made for habeas corpus, to be duly submitted to the competent court (art. 28, Basic Law).

47 The preventive detention under article 186 (1) of the Code of Penal Procedure is defined as exceptional in nature, it may only be applied when no more favourable measure is available to replace it.

48 Torture or cruel, degrading or inhuman treatment is specifically prohibited by law and any agent performing such acts in the course of his duties shall be punished for a breach of discipline and a criminal act (art. 28, Basic Law, and arts. 234-236, Penal Code). It should be noted that the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 is in force in the Macau SAR, having taken effect for Macau on 15 July 1999.[9]

49 Also punishable are those who on their own initiative or following orders of a superior misuse their office to torture, as is the hierarchical superior who, being aware of such acts of subordinates, fails to report them within three days (arts. 237 and 238, Penal Code).

Paragraph (c) - Political rights

50 In Macau, the principle applies that permanent residents of Macau have the right to elect and to be elected (art. 26, Basic Law). These rights are developed on the basis of ordinary legislation, by Law 10/88/M of 6 June, amended by Law 10/91/M of 29 August, by Law 1/96/M of 4 March and by Law 1/1999 of 20 December. Decree-Law 51/91/M of 15 October and Law 25/88/M of 3 October, amended by Law 3/97/M of 14 April, all of which approve the electoral system for the Municipal Assemblies (annexes 14 and 15).

51 Law 4/91/M of 1 April, which approved the electoral system for the Macau Legislative Council, was abrogated by attachment I (2), of the Reunification Law - Law 1/1999 of 20 December - providing that at the end of the year 2000 or the commencement of 2001, the Legislative Council should approve a new law on the subject, on the recommendation of the Macau SAR Government (attachment II (2), Basic Law)

52 The electoral system and the composition of the bodies elected by the Macau SAR are described in the core document, to which reference is made

53 It is further stressed that during the electoral campaigns for the regional elected bodies, the following principles are to be guaranteed

- freedom for electoral propaganda,
- equal opportunity and treatment for the various candidatures,
- impartiality of the public powers towards the various candidatures,
- control of electoral accounts (arts. 34-55, Law 25/88/M of 3 October)

54 Macau residents also enjoy, as previously stated, the right to petition under the terms of Law 5/94/M of 1 August, and the right to submit suggestions, claims and complaints relating to lacunae in the public services, via the Centre for Public Assistance and Information (CAIP) (art. 17 (b) (1), Decree-Law 23/94/M of 9 May)

55 Under ordinary legislation, rules for access to the use of public funds are subject to the Statute for Macau Public Administration Workers (ETAPM - Decree-Law 87/89/M of 21 December and respective amendments, as stated above in the information relating to article 2 of the Convention. Equality of conditions and opportunity for all candidates is, under article 46 of ETAPM, raised to the level of a general principle in respect of recruitment and selection of staff. With further reference to article 46, for acts carried out during a recruitment and selection procedure, there is a facility for claims and hierarchical or contentious appeal, thus guaranteeing the safeguarding of legally protected interests

Paragraph (d) - Other civil rights

(i) The right of free movement or choice of residence within the Region

56 Macau SAR residents are recognized as being free to remove and establish themselves in any part of the Macau SAR and are free to emigrate to other countries or regions, and also to travel, leave the Region and return there (art. 33, Basic Law). Similarly, the right to free circulation of regional residents, permanent or otherwise, is guaranteed

57 The same rights extend to persons authorized to reside in Macau for specific periods of time, and also to the family members of non-resident workers (art. 10 (4), Decree-Law 55/95/M of 31 October (annex 16))

58 Persons not authorized to remain or reside in the Region are regarded as illegal and may be subject to expulsion and to other penalties provided under the law (art. 2, Law 2/90/M of 3 May). Order for the expulsion of illegal immigrants is the prerogative of the Macau SAR Chief Executive (art. 4, Law 8/97/M of 4 August).

(ii) Right to leave and to return to the Region

59 In the absence of any legal orders to the contrary, permanent residents of the Macau SAR may absent themselves from and return to the Region whenever they so desire.

60 Anyone wishing to enter or depart from the Region must carry a valid passport or a legally recognized equivalent identification document, under the terms of Decree-Law 55/95/M of 31 October.

61 Entry to the Region may be refused only to those persons who, although previously authorized to enter and reside in Macau, infringe the precise terms of such authorization and those who had previously been expelled or deprived under sentence of their liberty for a period of not less than one year, where strong evidence is available of their having perpetrated a serious crime (art. 14, Decree-Law 55/95/M of 31 October).

(iii) Right to a nationality

62 In accordance with the provisions contained in article 18 and of attachment III to the Basic Law, the Nationality Law of the PRC is applicable in the Macau SAR (see Chief Executive's memorandum No. 4/1999 of 20 December (annex 18) arranging for its publication in the Official Gazette).

63 Considering the specific situation in Macau as a special administrative region, the Standing Committee of the PRC People's National Assembly proposed to provide various clarifications as to application in Macau of the PRC Nationality Law. These "Clarifications of the Standing Committee of the People's National Assembly of the People's Republic of China on various points affecting the application of the PRC Nationality Law to the Special Administrative Region of Macau" were adopted on 29 December 1998 by the sixth session of the Standing Committee of the People's National Assembly Ninth Legislature.

64 Under the terms of point 1, paragraph 2, of these "Clarifications", Macau SAR residents of Chinese and Portuguese origin may choose either the nationality of the People's Republic of China or the nationality of the Portuguese Republic. Persons electing one of these may not retain the other. Prior to electing one of these nationalities, the said Macau SAR residents enjoy the rights provided under the Macau SAR Basic Law, except for the case of rights dependent on possession of a particular nationality.

65 In either case, the Macau SAR Chinese citizens in possession of Portuguese travel documents may continue to make use of these for travel to other countries and regions but may not enjoy Portuguese consular protection in the Macau SAR and other PRC regions by reason of their possessing the said documents.

66. Foreigners and stateless persons permanently resident in the Macau SAR may request acquisition of Chinese nationality through naturalization (art. 4 (1), Law 7/1999 of 20 December (annex 19)).

67. Except for the case of stateless persons, when the nationality application through naturalization or reversion has been approved, the applicant must present documents attesting to the renunciation of the foreign nationality (art. 11 (3), Law 7/1999 of 20 December).

(iv) Right to marriage and selection of spouse

68. The rights to form a family and enter into a marriage are protected under article 38 of the Basic Law and in article 1 (1), Law 6/94/M of 1 August - the Fundamental Family Policy Law (annex 20).

69. The Administration has the special responsibility, in collaboration with associations concerning family interests, for promoting the improved quality of life of the family and its members (art. 1 (2), Law 6/94/M of 1 August).

70. In the Macau SAR, association between the various communities encourages the existence of mixed marriages. In 1998, there were about 593 mixed marriages.

Marriages, by nationality of spouses (1998)

Wife's country of nationality	Husband's country of nationality			
	Total	Portugal	China	Other
1998 total	1 451	666	662	123
Portugal	502	341	112	49
China	817	244	517	56
Other	132	81	33	18

(v) and (vi) Right to property and to inherit

71. The right to private property and to succession through inheritance of property are specifically guaranteed in the basic law (arts. 6 and 103).

72. There are no restrictions or limitations on the exercise of property rights of non-residents. On the contrary, some of the most important licensed public utility companies involve significant registered holdings of firms owned largely by non-residents.

73. Wills are regulated by the personal law of the author of the will at the time of death (art. 59, Civil Code (annex 21)). The personal law is the law for the individual's habitual residence, which is taken to be the place which the party makes the effective centre for his personal life. Habitual residence in Macau is not subject to any administrative formalities and habitual residence in Macau is presumed for those who hold a "Macau Resident's Identity Card" (art. 30 (3), Civil Code). In the event of a person's having more than one habitual residence, one

of which is in Macau, the personal law shall be that of the Macau SAR (art. 30, Civil Code). In the absence of a habitual residence, the personal law shall be that of the place with which the personal life is most closely connected (art. 30 (5), Civil Code).

(vii) Right to freedom of thought, conscience and religion

74. In its article 34, the Basic Law establishes freedom of conscience, religious belief, prayer, promotion of religious activities in public and sharing therein. As a result, the Government does not interfere in the internal affairs of religious organizations or in the maintenance and development of the relations between these religious organizations and the faithful or of believers from outside the Region (art. 128, Basic Law). Hence, nothing prevents religious organizations from founding seminaries and other educational establishments (in addition to those already in existence), hospitals and social assistance institutions, or from providing other social services (art. 128, Basic Law).

75. One result of these principles is the prohibition of persecution, privation of rights or dispensation from civic obligations or duties arising out of religious convictions or practices.

76. Freedom of organization and independence of religious persuasions are as unrestricted as the freedom of association in general.

77. Law 5/98/M of 3 August (annex 22), which recognizes and regulates the freedom of religion and religious groups, provides in its article 2 that nobody shall suffer prejudice of persecution by reason of religious convictions or failure to follow any religion.

78. The principles of non-conformity and of renunciation are recognized in article 3 of the same law, which provides that Macau shall have no official religion and that its relations with religious bodies are based on the principle of non-involvement and neutrality, with no interference in the organization of religious persuasions (paras. 2 and 3).

79. Article 4 affirms the principle of equality of religions before the law.

80. Article 5 proclaims the content of freedom of religion sufficiently, describing the rights therein contained: to follow or not to follow a religion, to convert or to renounce one's beliefs, to fulfil or disregard the obligations of the religion espoused, to express personal convictions and to display these convictions, alone or in community or in private, to spread by any means the doctrine of one's religion, to practise the rituals and rites pertaining to the espoused religion.

81. Another aspect to be stressed concerns the recognition of the personal right to religious convictions. To this end, article 6 of the above-mentioned law provides that nobody may be subjected to cross-examination as to his religious beliefs, except for the purpose of gathering not individually identifiable statistics, nor may one be penalized for failure to answer.

82. The rights of assembly and demonstration are protected (art. 9), as is the freedom to learn or to teach any religion in educational establishments (art. 10).

83. The training of believers and ministers is recognized in article 21 of this law, and the religious bodies may create and manage premises appropriate to such ends.

84. Article 15 of the same law recognizes the internal autonomy of religious groups, providing that these are organized in harmony with their internal statutes and are administered within the limits of the law, and that they are allowed to create, within each and among themselves, associations, institutes or foundations, whether or not enjoying a legal form, intended to ensure exercise of the religion or the prosecution of other specified aims.

85. Another aspect to be stressed concerns the times of transmission for public TV broadcasting and telecommunications available to religious communities applying for these (art. 17 of the same law). At the end of April 2000, the Chinese channel TDM or Ou Mun Tin Toi allocated three slots per week to Catholic Church bodies and one hour weekly to a Buddhist one. The Portuguese channel (Radio Macau) allocated half an hour per day to Catholic Church bodies. The TDM Chinese-language TV channel allocated four half-hour periods weekly to Buddhist bodies. Once a week, at 11 a.m. on Sundays, the Portuguese channel broadcasts a mass celebrated in a Catholic church.

86. Penal law protects the principle of freedom of religion, punishing offenders against religious feelings and the damage or theft of religious objects (arts. 198 (1) (c), 207 (1) (e), and 282 of the Penal Code).

87. The guarantee of freedom of conscience and religion is further illustrated by the public holiday calendar applicable to the Macau SAR, which reflects the sociological and cultural variety typical of the Region. Thus, public holidays in Macau include days commemorating: Universal Brotherhood (1 January), the Death of Christ (21 April), Buddha's Day (11 May), the Commemoration of Ancestors (Chong Yeong, 6 October), the Immaculate Conception (8 December) (Administrative Regulation No. 4/1999 of 20 December (annex 23)).

88. The Macau public hospital - Conde S. Januário Hospital - has two mortuary chapels, for the celebration of Christian and Buddhist rites respectively.

89. Appropriate religious facilities are available even to prisoners, who may receive visits by the corresponding clergy. In this context, prisons have suitable facilities for religious practice.

90. Not only are there no restrictions in Macau on freedom of intellectual, artistic and scientific expression, but the law protects the authors, both residents and others, since in the latter case there is material reciprocity (art. 37, Basic Law, and art. 50 (1) and (2), Decree-Law 43/99/M of 16 August).

(viii) Right to freedom of opinion and expression

91. The freedom of opinion and of expression benefits from special protection under the Macau legal system, by virtue of article 27 of the Basic Law which specifically protects this freedom and also freedom of the press and of publication.

92. Freedom of the press covers: freedom of expression and creation for journalists and literary collaborators, for journalists, the right of access under the law to sources of information and the safeguarding of their interests and professional confidentiality, and the right to establish newspapers and any other publications.

93. Law 8/89/M of 4 September, together with the amendments to Decree-Law 93/99/M of 29 November, and Law 7/90/M of 6 August (annex 25), regulate these principles, covering respectively the TV and radio broadcasting service and press activities.

94. System of broadcasting activities. By virtue of the provisions of article 3 (1) (b) Law 8/89/M of 4 September, the objective of broadcasting is to guarantee residents right to inform and be informed without hindrance or discrimination. Broadcasting activity therefore ensures the freedom, variety, exactitude and objectivity of the information and its independence vis-à-vis the public authorities (art. 3 (2) (a)).

95. System of publication. Under the terms of article 4 (1) of Law 7/90/M of 6 August, "freedom of the Press in expression of thought is exercised without subjection to any form of censorship, authorization, deposit, guarantee or qualification".

96. The right to information as an example of freedom for the expression of thought includes freedom of access to sources of information, guarantee of professional confidentiality and of the independence of journalists, liberty of publication and transmission as well as the freedom to establish an enterprise (art. 3).

97. There exist at present in Macau:

(a) Two broadcasting companies, TDM-Teledifusão de Macau, S.A.R.L., which has licences for two TV channels (one transmitting in Chinese and the other in Portuguese) and two radio channels (one transmitting in Chinese and the other in Portuguese), and Rádio Vilaverde, S.A.R.L., licensed for one radio channel in Chinese;

(b) Twelve Chinese newspapers: the Semanário Desportivo, Si, Si, Correio Sino Macaense, Pulso de Macau, Recreativo de Macau (all weeklies), Ou Mun Iat Pou, Va Kio, Si Man Pou, Tai Chung, Seng Pou, Cheng Pou, Macau Today (all dailies) and four in Portugese: O Clarim, Ponto Final (weeklies), Tribuna de Macau and Macau Hoje (dailies);

(c) Eighteen newspaper and other correspondents, notably of China News Service, TVB, ATV, Hong Kong Cable TV, Associated Press/South China Morning Post, Reuters/South China Morning Post, People's Daily, Weng Hui Bao (Shanghai), CCTV, China National Radio, China Radio International, Apple Daily, Jornal O Dia, Luso Press, Jornal de Negócios and Jornal Público;

(d) About 12 periodical magazines or reviews, one of which - Revista de Cultura - is trilingual (Chinese, Portuguese and English), four are bilingual - Administração, Macau and Revista Juridica de Macau in Chinese and Portuguese and Macau Image in Portuguese and English, and one is in English - Macau Travel Talk. The remainder are published in Chinese only;

(e) Two press agencies Lusa and a branch of Xinhua/New China

98. In line with the above, Macau has a TV programme entitled the "Philippine Hour" produced by Teledifusão de Macao (TDM) for the benefit of the Macau Filipino community.

(ix) Right to freedom of peaceful meetings and association

99. The rights of association, assembly, procession and demonstration as well as the right and freedom to organize and take part in associations and strikes are guaranteed by article 27 of the Basic Law.

100. Right to meet and to demonstrate. Law 2/93/M of 17 May (annex 26) which regulates the right to meet and to demonstrate in the Macau SAR, reiterates these principles, providing that residents of Macau may meet peacefully and unarmed without any prior authorization being required therefor (art. 1 (1) and (2)). Previous notice of intent is enough. Only meetings or demonstrations for purposes contrary to law are prohibited though article 2 of Law 2/93/M states that the exercise of these rights may not be restricted, limited or conditioned except in cases provided for under the law, as stated in article 1 (3) of the same document.

101. Meetings or demonstrations may not be carried out by illegal occupation of premises open to the public or to individuals (art. 3, Law 2/93/M).

102. There are restrictions, since meetings or demonstrations are not allowed between 0.30 a.m. and 7.30 a.m., except on closed premises, show halls, uninhabited buildings or, where there are occupants, after having obtained their permission in writing (art. 4, Law 2/93/M).

103. The law allows the police authorities to interrupt the course of meetings or demonstrations only when the organizers have repeatedly been informed that it is not authorized since the object of the meeting is contrary to law, or if these persons depart from their original objective by carrying out acts contrary to law which seriously and effectively disturb public safety or the free exercise of individual rights (art. 11 (1)).

104. Law 7/96/M of 22 July (which amends art. 14 of Law 2/93/M of 17 May) prescribes that if the authorities overstep the legal conditions and impede or attempt to impede the free exercise of the right of assembly or demonstration, they incur the sanctions provided for in article 347 of the Penal Code for the crime of abuse of authority and shall be subject to disciplinary measures.

105. Counter-demonstrations which disturb meetings or demonstrations and hamper their free prosecution incur the penalty prescribed for the crime of constraint (art. 148, Penal Code).

106. Right of association. The general system for the right of association, like the specific system for political associations, is regulated under Law 2/99/M of 9 August and articles 140 et seq. of the Civil Code.

107 Any persons may form an association without the need for any authorization provided that their objective is not the promotion of violence, infringement of the penal law or contrary to public order. Quasi-military armed associations, militarized or paramilitary ones and fascist associations are prohibited (art. 2 of the Law)

108 Another aspect of the right of association is that nobody may be coerced into joining an association or remaining in it against his/her will, under pain of criminal liability for the party responsible for such coercion (art. 4)

109 There exist in the Macau SAR various formally created associations, resulting from the ethnic and cultural diversity of Macau developed into the peaceful coexistence of multiple cultures. These include the Filipiniana Sports and Recreational Club, the Filipino Association of the International Baptist Church, the Association of Filipino Professionals in Macau, the Association of Filipino Friends of Macau, the Association of Natives and Friends of Angola in Macau, the Association of Friends of Angola, the Association of Cambodian nationals in Macau, the Association of Zoroastrians in Macau, the Association of the Korean Protestant Church in Macau, the Timorese Democratic Union, and the Rai Timor Group (GMRT) in Macau. Further, some of these associations have been actively engaged in collecting funds and goods for humanitarian support to East Timor and, more recently, for Mozambique.

110 The right of association may not be used for the purpose of forming or participating in secret societies, otherwise known as sects or triads.

111 The increase in early 1997 of illegal demonstrations by secret associations or societies led government agencies in Macau to seek to strengthen existing facilities for countering such organizations. Hence, Law 6/97/M of 30 July (annex 27) describes the legal system for fighting organized crime, punishing specific forms of illegality which by reason of their normally being connected with the activities of such organizations are particularly in need of being prevented through the establishment of specific mechanisms to combat organizations of this kind.

Paragraph (e) - Economic, social and cultural rights

(i) Right to work

112 The Right to choose one's profession and employment is promulgated in article 35 of the Basic Law.

113 ILO Conventions Nos. 100 (on equality of remuneration) and 111 (on discrimination relating to employment and occupation) remain in force in the Macau SAR.[6]

114 Implementation of ILO Convention No. 144[7] (concerning tripartite consultations) is a joint function of the Macau SAR Chief Executive and of the Standing Council for Social Arbitration which, as a consultative organ of the Chief Executive, is designed to establish a

dialogue and arbitration between the Government, employers and workers, in the development of regional socio-employment policy (art. 115, Basic Law and art. 1, Decree-Law 59/97/M of 29 December (annex 28).

115. The legal system of work relationships current in Macau notably enshrines the principle of equality in work relationships, decreeing that the right to work and the principle of equality imply the absence of any discrimination based on race, colour, sex, religion, organizational affiliation, political opinions, social status or social origin (art. 4, Decree-Law 24/89/M of 3 April (annex 29)).

116. In 1989, a Labour and Employment Services Office was formed which includes, in addition to an Employment Exchange, information and professional guidance services, which are free and available to all private employers and workers.

117. In compliance with ILO Convention No. 81,[8] on labour inspection, the Labour Inspectorate records the existence of any type of discrimination in employment and prepares reports as to the existence of violations, their nature and the sanctions applicable, forwarding these to the competent court.

118. It is the responsibility of the Public Minister as guarantor of legality to provide unofficial support to the workers and their families in the defence of their rights, in addition to the defence of collective rights (art. 56, Law 9/1999 of 20 December).

(ii) Right to form and join trade unions

119. ILO Convention No. 87 of 9 July 1948 (on freedom of association and protection of the right to organize) and No. 98 of 1 July 1949 (on the right to organize and collective bargaining),[9] remain in force in Macau.

120. Law 4/98/M of 27 July (annex 30), which defines the bases of employment policy and labour rights, stipulates in article 5 (1) (f), as one of the labour rights of all workers, the right to affiliation in representative associations protecting their interests. The bases described by the legislator in this law shall eventually be developed further, given concrete form and implemented by internal legislation.

121. There have been formed in Macau, under legislation regulating the right of association, numerous workers' associations in the form of trades unions. One example is the Association of the Macau Public Official Employees (ATFPM) which is affiliated to the Public Services International (PSI).

(iii) Right to housing

122. Once the conditions required under Decree-Law 55/95/M, of 31 October have been satisfied, with the amendments introduced by Law 1/1999 of 20 December which regulates entry to and residence in Macau, there are no further restrictions on the right to housing.

123. The Government's objective is the gradual creation of conditions enabling each family to have at its disposal a home which in size and other features corresponds sufficiently to the needs of a normal family life, offering intimacy and privacy (art. 20 (1), Law 6/94/M, of 1 August, approving the Fundamental Family Policy Law). Consequently the Government is actively promoting a policy of social housing, under which any family member or individual living under unfavourable economic circumstances may apply for attribution by lot of social premises, classified in terms of rental contracts (Decree-Law 69/88/M of 8 August (annex 31)). In addition, since a vast section of the population have been seen, by reason of inadequate means, to be living in very straitened space, lacking minimum hygiene, it was decided, in addition to the social residential policy, to introduce an economic residential policy (Law 13/80/M of 6 September with amendments in Law 8/81/M of 8 August (annex 32)). This cheap housing destined for residence is either rented or sold, on an ad hoc basis (arts. 4 (1) and 6 (1) of Law 13/80/M).

124. In addition to the social housing, the Administration in 1984 initiated a further programme known as "Residential Development Contracts", now regulated under Decree-Law 13/93/M of 12 April (annex 33) which represent special contracts signed between the Government and the civil building companies for the construction of low-cost housing for sale at prices fixed by the Administration, the attribution of which is also subject to public competition (Decree-Laws 26/95/M, 51/98/M and 17/99/M).

125. Included under the policy responding to the need for rehousing by reason of natural disasters (typhoons or tropical storms) or obligatory vacating of rough housing (sheds), the Administration still has a reserve of vacant plots created under Decree-Law 45/88/M of 13 June (annex 34) which regulates the "Temporary Housing Centres".

(iv) Right to health, medical care, social security and social services

126. The right to social benefits extends to all residents of the Macau SAR (art. 39, Basic Law).

127. The Macau Health Department, following the WHO programme "Health for all by the year 2000", guaranteed access to universal and free health care for the entire population of Macau. This principle is dealt with in Decree-Law 24/86/M of 15 March (annex 35).

128. Health-care costs are fully or partly covered by the Macau SAR budget, depending either on the type of illness or the socio-economic condition of the user, and also whether he/she is a Macau resident (art. 3, Decree-Law 24/86/M, with the version introduced under Decree-Law 68/89/M of 9 October).

129. Health care is free of charge in the following cases:

- At health centres (medical care, including sickness, medicines);

- For public health reasons, for suspected cases or carriers of infectious/contagious diseases, drug addicts, cancer and psychiatric patients and in the context of family planning;

- To population groups at risk: pregnant women, children below 10 years of age and primary and secondary school pupils,

- Detainees,

- Individual or groups of broken families, and

- Persons over 65 years of age.

130. In addition, emergency health care provided at the Conde S. Januário Hospital (a public hospital) is completely free of charge.

131. Decree-Law 87/89/M of 21 December, which regulates the Macau Public Servants Statute, offers the following social benefits: retirement pensions, survivors pensions, subsidies in case of death, seniority premiums, family allowances, housing allowances, marriage allowances, funeral allowances, holiday allowances, childbirth allowances, shift allowances and health care.

132. A Social Security Fund was created under Decree-Law 58/93/M of 18 October (annex 36) and caters for local workers in the private sector. This Fund covers old-age pensions, invalidity pensions, unemployment benefits, sickness allowances, pneumoconiosis, work accidents, maternity assistance, social pensions, supplementary social pensions, childbirth allowances, marriage allowances and funeral allowances.

133. The regional Social Action System is designed to protect individuals and social groups in conditions of indigence by allowing them financial advances in cash and social aid in the form of equipment and services, as well as the social advancement of individuals and families and community development (art. 1, Decree-Law 52/86/M of 17 November (annex 37)).

134. Social action is based on the principles of equality, efficiency, solidarity and sharing. Equality is achieved by eliminating all forms of discrimination, notably in respect of sex or nationality, without prejudice to residents. Efficiency is achieved by duly granting financial aid and services with a view to preventing situations of destitution and encouraging dignified living conditions. Solidarity involves teaching the community to accept responsibility for the achievement of the social action objectives. Sharing means making all persons responsibly involved in the entire process (art. 2, Decree-Law 52/86/M).

135. The organs of the Social Action System are the Chief Executive, the Social Action Council and the Social Action Institute (art. 3, Decree-Law 52/86).

(v) Right to education and professional training

136. Right to education. All residents of Macau, independently of race, religion and political or ideological conviction, are entitled to education (art. 37, Basic Law and art. 2, Law 11/91/M of 29 August (annex 38)). This right consists of two parts: equality of opportunity in access to

and study in schools and the freedom to learn and teach, which is characterized by prohibition of stereotyped education and protection of the right to creative expression and the existence of private institutions

137 The need to integrate the various communities present in Macau is realized and to this end a sufficiently flexible educational and diversified system has been created which involves fostering the development of a democratic and multifaceted attitude, with respect for others and for their ideas and for dialogue and the free exchange of opinions (art 3 (1), Law 11/91/M) This attitude guarantees respect for freedom to learn and to teach, taking into account that the Government does not arrogate to itself the right to programme education in accordance with any philosophical, aesthetic, political, ideological or religious directives and that the right to the establishment and existence of private institutions is assured, these being free to elaborate for themselves their own educational syllabus

138 Basic education, including the preparatory year for primary education, primary education and general secondary education are universal, obligatory and free of charge (art 6, Law 11/91/M and art 1, Decree-Law 42/99/M of 16 August (annex 39)) Compulsory schooling covers children and youths between the ages of 5 and 15 and is provided in official or private educational institutions (art 1 (1), Decree-Law 42/99/M) Free education means no fees or other charges for registration, attendance or certification Pupils attending unsubsidized private schools receive allowances to cover fees (art 6 (4), law 11/91/M)

139 Official educational institutions, covering 6 2 per cent of all pupils in the educational programme, may use as the teaching medium only the Chinese and Portuguese languages (art 35 (7) Law 11/91/M) Official educational institutions using Portuguese as the teaching medium shall adopt Chinese as the second language and conversely, those using Chinese shall adopt Portuguese as the second language (art 35 (8), Law 11/91/M)

140 During the school year 1997/98, the most representative teaching medium was Chinese (73 8 per cent) followed by Chinese and Portuguese (13 1 per cent) English was the teaching medium in 10 establishments and Portuguese in 5 In official establishments, Chinese was the most used teaching medium (about 76 2 per cent) while only 14 3 per cent of establishments used Portuguese

141 In parallel with the official teaching establishments, there are private ones with parallel curricula, which follow the school pattern of free tuition for all while using Portuguese as the medium of instruction In the context of their teaching autonomy and private educational institutions are entirely free to decide on the language of tuition to be used and also the second language to be included, obligatorily, in the corresponding curricula (art 35, (6) Law 11/91/M)

142 For private tuition not parallel to the official establishments, which cover 93 0 per cent of the total number of pupils in the educational complex, 89 9 per cent of the establishments teach in Chinese and 10 1 per cent in English

143 Apart from higher education, there were 93,806 pupils in the educational establishments in Macau in the school year 1997/98, of whom 79,614 were Macau-born, 9,315 from

Portugal, 771 from the PRC, 3,275 from the Hong Kong SAR and 831 from other places. The teachers in these establishments also reflect the spectrum of communities existing in the Macau SAR. Hence, out of a total of 3,696 teachers for the year 1997/98, 1,619 were Macau-born, 236 from Portugal, 1,386 from the PRC, 180 from the Hong Kong SAR, 40 from the Philippines and 235 from elsewhere.

144. Higher education may be either public or private and during the school year 1997/98, there were 25 establishments for higher learning in Macau, mostly sponsored by the Government.

145. Regarding the breakdown of students in higher education by nationality, 59.8 per cent originated from Macau, 18.5 per cent from the PRC, 15.0 per cent from the Hong Kong SAR and 2.4 per cent from Portugal. As to the teachers' nationalities, we note for the same year that 28 per cent originated from Macau, 22.3 per cent from the PRC, 21.2 per cent from Portugal and 14.2 per cent from the Hong Kong SAR.

146. On the subject of access to public higher education, local residents enjoyed a reduction in fees of between 40 and 85 per cent, depending on the courses and establishments. For the year 1997/98, there were in Macau 9 institutions and 24 establishments for academic education.

147. Apart from the reduction in fees, subsidized by the Government, the latter, jointly with other institutions gave financial assistance for tuition in the form of scholarships. For the year 1998, 7,045 scholarships were awarded.

148. Professional training. Decree-Law 51/96/M, of 16 September (annex 40) defines the professional training system which has been a priority sector in recent years for the Government of Macau. That document proposes training persons for professional activity, ensuring equal access by all to professional guidance and training, and providing continuous cooperation between the departments and groups concerned (art. 4 (a) and (b), Decree-Law 51/96/M).

149. Also, with a view to preparing the young to prepare for the labour market and to ensure development capacity for absorption of the knowledge needed to carry on a qualified profession, legislation of the legal basis for apprenticeship (arts. 1 and 2, Decree-Law 52/96/M of 16 September (annex 41)). Apprenticeship includes both general and techno-professional specific training and is designed for youths having completed primary school, aged 14 to 24 (art. 8, Decree-Law 52/96/M).

(vi) Right to participate in cultural activities

150. Access to and participation in cultural activities and demonstrations is a right authorized in the Basic Law (art. 37).

151 The Government and other Macau SAR public entities support the cultural initiatives of the various communities, whether by encouraging their organization or providing logistical and/or financial assistance to stimulate them, or else allocating areas for cultural performances by the various communities living in Macau

Paragraph (f) - Right of access to all public place or service, such as transport facilities, hotels, restaurants, cafés, theatres and parks

152 There are no restrictions on entry to public or private premises by reason of racial origin

Article 6

The courts

153 The Basic Law gives the Macau SAR independent legal authority, including that of judgement in the final instance. It also provides for independence of the courts, their subordination only to the Law and their jurisdiction over all cases in the Region. Exceptions to court jurisdiction are taxes of a legal nature and principles previously in force which the Basic Law has retained. Macau SAR courts also do not have jurisdiction over State acts, such as those concerning national defence and foreign relations (arts. 19 and 82-94, Basic Law)

154 Article 84, paragraph 3, of the Basic Law stipulates that the organization, competence and operation of the courts is regulated by law. Under these terms, on 20 December 1999, Law 9/1999 approved the legal organizational bases in Macau and Law 10/1999 (annex 42) regulated the position of magistrates

155 Article 4 of Law 9/1999 lays down that it is the prerogative of the Macau SAR courts to ensure the defence of legally protected rights and interests, repress infringements of legality and settle conflicts in the public and private domains. The following courts have been set up in the Macau SAR: the Basic Court (with jurisdiction in the first instances over all matters not allocated to a specific court, this court also includes the Criminal Instruction Judges), the Administrative Court (having jurisdiction in the first instances over lawsuits ensuing from administrative, legal, fiscal and customs relationships), a court of second instance and a court of final instance (arts. 27-54, Law 9/1999)

The judiciary

156 Judges in the Macau SAR courts of the various instances are appointed by the Chief Executive on the recommendation of an Independent Commission for the Recommendation of Judges, consisting of judges, lawyers and prominent local personalities (art. 87 (1), Basic Law and art. 15, Law 10/1999). Judges are selected in accordance with their professional qualifications (licentiateship in law legally recognized in Macau and substantial knowledge of the Macau juridical system) and by reason of the general requirements for the exercise of public office

157 The independence of judges is safeguarded by their irremovability and their not being subject to any orders or instructions other than to respect the decisions of higher courts

(art. 87 (2) and 89, Basic Law; art. 5 (1) and (2), Law 9/1999 and art. 4, Law 10/1999). Judges are not subject to transfer, suspension, retirement, exoneration, resignation or any other form of removal from their office except as provided for by law (art. 5 (1), Law 10/1999).

158. Judicial magistrates may not be held liable for acts carried out in the exercise of their legal duties, which means that judges are subject only to civil, criminal or disciplinary responsibility by reason of their office, in cases provided for by the law (art. 89 (2), Basic Law and art. 6, Law 10/1999).

The Public Ministry

159. In the Macau SAR, the Attorney-General, assistant attorneys and their deputies are magistrates of the Public Ministry. In the discharge of their duties, the Public Ministry magistrates are independent and free of any interference (art. 90 (1), the Basic Law).

160. The Attorney-General is appointed by the Government on the recommendation of the Chief Executive. The assistant attorneys and deputies are appointed by the Chief Executive on the recommendation of the Attorney-General (art. 90 (2) and (3), Basic Law).

161. The Basic Law similarly provides that the organization, competence and operation of the Public Ministry are regulated by law. Thus, Law 9/1999 defines the Macau SAR Public Ministry as a judicial organ discharging its legally attributed functions independently. It is autonomous in relation to the other organs of authority, exercising its prerogatives and competences independently of any interference. Law 10/1999 regulates in detail the legal status of Public Ministry magistrates.

162. The Macau SAR Public Ministry's autonomy is characterized by its adherence to the criteria of legality and objectivity and by the fact that the Attorney-General, assistant attorneys and their deputies are subject solely to the law.

The Anti-Corruption Commission

163. The Anti-Corruption Commission (CCC) is a public organ enjoying total independence. It is not subject to any form of order or instruction (art. 2, Law 11/90/M of 10 September as amended by Law 2/97/M of 31 March (annex 43) and art. 14 of Law 1/1999 of 20 December). The Anti-Corruption Commission has the following responsibilities:

(a) To take steps to forestall corrupt or fraudulent actions;

(b) To undertake instructional activities not directly connected with fundamental rights concerning crimes of corruption or fraud committed by officials of public bodies and their agents in respect of penal procedural law and without prejudice to the powers allocated by the law in this respect to other bodies;

(c) To undertake instructional activities not directly connected with fundamental rights concerning crimes of electoral fraud committed by any persons in respect of penal procedural law and without prejudice to the powers allocated by the law in this respect to other bodies.

(d) To encourage the defence of rights, liberties, guarantees and legitimate interests of persons, assuring them through the media of the justice, legality and efficiency of the public administration.

164. The Anti-Corruption Commissioner is in charge of the CCC and is recommended by the Chief Executive and appointed by the Government (art. 50 (6) and art. 59, Basic Law).

165. For the supervision of the Commission's complete independence of other organs of authority, in the discharge of his supervisory duties over the public authorities and with due regard for his powers of investigation to protect the rights, liberties, guarantees and legitimate interests of persons, the Anti-Corruption Commissioner acts as an Ombudsman on behalf of the Macau SAR.

Access to law and to the courts

166. Access to law and to the courts is duly explained in paragraph (a) of article 5 of this report, to which reference is made.

Means for the protection of basic rights and forms of reparation for rights infringed

167. The courts are basically responsible for inspection in the matter of human rights and punishment of infringements thereof. There exist, however, extrajudicial procedures for the protection of basic rights. The following describes the steps to be taken in the event of any violation of rights, liberties and guarantees by government bodies:

(a) Complaints at the Centre for Public Assistance and Information (CAIP). Macau SAR residents have the right to lodge complaints and claims at CAIP in respect of acts or omissions by public departments concerning matters directly affecting them, and also to receive information as to the results of such measures (Decree-Law 23/94/M of 9 May);

(b) Complaints at the Anti-Corruption Commission. One of the CCC's tasks is to take action in the defence of rights, liberties, guarantees and legitimate interests of persons, ensuring through the media that the public administration acts with justice, legality and efficiency. The CCC may make recommendations directly to the bodies concerned with a view to the correction of illegal or unjust administrative acts concerning matters which in one form or another have come to its notice;

(c) Complaints to the Legislative Council. Article 71 (6) of the Basic Law attributes to the Legislative Council the competence to receive and deal with complaints submitted by Macau SAR residents. Article 9 (f) of the Legislative Council Rules (annex 44) attributes to the

Chairman of the Legislative Council the authority to receive and forward to the corresponding competent commission any petitions, claims or complaints addressed to the Legislative Council;

(d) Administrative complaints. In accordance with the Code of Administrative Procedure, should subjective rights or legally protected interests be infringed by an administrative act, the party concerned may lodge a complaint claiming from the perpetrators the annulment or rectification of those acts;

(e) Hierarchical recourse for administrative acts. Hierarchical recourse is available for all administrative acts carried out by bodies subject to the hierarchical powers of other bodies. The basis for such recourse may be illegality, ignoring the principles of equality, proportionality, justice and impartiality, or the incompatibility of the act with the Code of Administrative Procedure.

Judicial procedures for protection of basic rights

168. The following legal procedures are available to aggrieved parties:

(a) Legal recourse for administrative acts. Administrative acts may be the subject of recourse to the competent courts. The Administrative Court has the competence for recourse for acts committed by entities, organs and services up to management level. The Court of Second Instance has competence in the event of recourse for administrative acts by parties above management level (Law 9/1999);

(b) Procedures for impugning regulations as a means of guarantee against infringement of rights. The courts may declare standards contained in administrative regulations illegal with general obligatory effect by virtue of the Code of Administrative Procedure (arts. 88 et seq.). Once the same standard has been declared illegal three times, the decision as to its illegality may take general compulsory and retroactive effect from the time of entry into effect of the corresponding administrative regulation.

Forms of reparation and compensation for rights infringed

169. The general principle arising out of article 477 of the Civil Code provides that in cases of intent or mere blame, persons unlawfully transgressing the rights of others or of any legal provision designed to protect the interests of others shall be required to compensate the aggrieved party for damage suffered by reason of such infringement.

170. In penal cases, applications for civil compensation must normally be made during the case in question. Where this cannot be done the judge may still allocate a given sum in reparation for damages suffered, where the aggrieved party does not object and provided that there are sufficient grounds for the purpose and the amount, which is to be determined in accordance with the civil law criteria.

171. Any impugned party found to be at fault must compensate the victim. Where he lacks the ability to do so or if he cannot be found, alternative means for indemnification exist. Victims of

violent crimes may request subsidies of various kinds from the Macau SAR as a way of alleviating the physical damage suffered, compensating for incapacity to work or providing food for family members in the event of a death (Law 6/98/M (annex 44))

172. A special law governs extracontractual liabilities of the Administration, collective public bodies and agents for acts of public management (art. 36 (2), Basic Law and Decree-Law 28/91/M of 22 April (annex 45))

173. The core document should be consulted for details of this point and as to the degree of linkage and implementation of jurisdictional decisions and resources.

Article 7

Teaching and education

174. As provided for above under paragraph (d) of article 5, the freedom of opportunity for access to tuition is protected in Macau.

Culture

175. As provided for above under paragraph (e) of article 5, the Macau SAR authorities support cultural initiatives in the various communities and will continue doing so.

Information

176. Promotion and dissemination of information on human rights have been among the chief concerns of the Macau Government, principally through communications media - contests, investigations and interactive media - and the distribution of brochures specially produced for this purpose. A large number of such initiatives are through the collaboration of residents' associations, workers' associations and educational centres.

177. Since February 1994, the Public Administration has been publishing in the Chinese press texts designed to clarify and inform the public as to legislation promulgated, including notably:

- In the daily Ou Mun Iat Pou since 1994, weekly publications in the columns "Know the laws of Macau" and "A summary of the Official Gazette",

- In the daily Va Kio since 1994, weekly publication of "Introducing recently published ordinances", and since 1995 the weekly publication of "Various aspects of Macau Law",

- In the daily Si Man Pou since 1996, the weekly publication of "Talking about the law in Macau",

- In the daily Correio Sino-Macaense, the weekly publication "A summary of the Official Gazette".

178. Other special programmes on legal affairs have been carried over the radio and TV in addition to information campaigns in secondary schools. The Chinese-language radio station Ou Mun Tin Tói has regularly been broadcasting since 1994 the programme Encyclopaedia of the Law in addition to transmitting a summary of the Official Gazette - in both Cantonese and M[illegible] - stressing the most important ordinance published during the week.

179. As soon as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights took effect in Macau, on 27 July 1993, the Legal Translations Office (GTJ) started publication of a bilingual brochure in Chinese and Portuguese, entitled "Basic rights applicable in Macau", with a view to disseminating the content of these instruments of international law. Along the same lines, GTJ published the following brochures in Chinese: Rights, Laws and Guarantees, Residence in Macau, Workers' Rights and The Social Security System. In December 1995, GTJ started the collection in Chinese Get to Know the Law in Macau, having already published five volumes, entitled respectively: Political and Constitutional System and Legal Organization in Macau, Family Rights, Marriage and Divorce, Some Points on Living in Macau, Descent, Adoption and Inheritance, and Rights, Liberties and Guarantees of Macau Citizens. GTJ also published various pamphlets in Chinese on The Public Ministry, Political Organization in Macau, Legal Aid, Marriage: conditions, rights and responsibilities, property division and divorce, Twelve questions on the Civil Code, The New Commercial Code and Standards for Adoption. In addition, and in the context of explaining the law, GTJ has published various books in Chinese, especially: The Penal Code, The Code of Penal Procedure - in simplified characters (in collaboration with the University of China for Political Science and law), A Legal Glossary and The Legal Basis of Public Office.

180. Also, the Macau Security Forces Services (FSM) recently opened two posts to serve and inform the public with the intention of providing a better understanding of their services. These offices are open daily and are designed to receive or provide information of a general nature concerning the FSM, while details are separately provided locally by representatives of the three services forming the FSM.

Notes

[1] The text of the Convention was published in Macau Official Gazette No. 37 of 14 September 1998. The continued application in the Macau SAR after 19 December 1999 of all the international agreements mentioned in this report was agreed upon by the Portuguese and Chinese sides of the Sino-Lusitanian Joint Liaison Group for the Macau question. The Government of the People's Republic of China informed the bodies concerned that it had assumed its obligations in respect of the Macau SAR under the agreements and notified this to the Secretary-General of the United Nations on 13 December 1999 under the terms of article 102 of the Charter of the United Nations, by a diplomatic note. These international law instruments were described in the attachments to the said diplomatic note.

[2] The covenants, both dated 16 December 1966, took effect in Macau on 27 July 1993. The corresponding texts were published in the Macau Official Gazette No. 52 of 21 December 1992.

[3] The text of this convention was published in Macau Official Gazette No. 48 of 29 November 1999.

[4] The texts of these conventions were published in Macau Official Gazette Nos. 44 and 38 on 29 October 1960 and 21 September 1998, respectively.

[5] The text of this convention was published in Macau Official Gazette No. 11 of 16 March 1998.

[6] ILO Conventions Nos. 100 (on equality of remuneration) and 111 (on discrimination in employment and occupation) became effective in Macau on 20 February 1967 and 19 November 1959, respectively. The texts of these Conventions were published in Macau Official Gazette No. 50 of 10 December 1966 and No. 42 of 17 October 1959.

[7] ILO Convention No. 144 (on tripartite consultations) of 21 June 1976 became effective in Macau on 6 September 1999. The text of this Convention was published in Macau Official Gazette No. 41 of 11 October 1999.

[8] ILO Convention No. 81 (on labour inspection) of 11 July 1947 became effective in Macau on 12 February 1962. The text of this convention was published in Macau Official Gazette No. 11 of 17 March 1962.

[9] ILO Conventions Nos. 87 (on freedom of association and protection of the right to organize) of 9 July 1948 and 98 (on the right to organize and collective bargaining) of 1 July 1949 became effective in Macau on 6 September 1949 and 1 July 1964 respectively. The texts of these conventions were published in Macau Official Gazette No. 41 of 11 October 1999 and No. 28 of 11 July 1964, respectively.